

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CHARLES DENNIS HAWKINS,
Petitioner,

v.

MAGGIE MILLER-STOUT,
Respondent.

CASE NO. C12-5477 RJB-KLS

ORDER DENYING PETITIONER'S
MOTION FOR APPOINTMENT OF
COUNSEL

Before the Court is Petitioner's motion for the appointment of counsel. ECF No. 23. Having carefully reviewed the motion and balance of the record, the Court finds the motion shall be denied.

DISCUSSION

There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254, unless an evidentiary hearing is required or such appointment is "necessary for the effective utilization of discovery procedures." See *McCleskey v. Zant*, 499 U.S. 467, 495 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); Rules Governing Section 2254 Cases in the United States District Courts 6(a) and 8(c). The Court also may appoint counsel "at any stage of the case if the interest of justice so require." *Weygandt*, 718 F.2d at 754. In deciding whether to appoint counsel, however, the Court "must evaluate the

1 likelihood of success on the merits as well as the ability of the petitioner to articulate his claims
2 pro se in light of the complexity of the legal issues involved.” *Id.*

3 Petitioner has not requested that he be allowed to conduct discovery in this matter, nor
4 does the Court find good cause for granting him leave to do so at this stage of the proceedings.
5 *See* Rule Governing Section 2254 Cases in the United States District Courts 6(a). Petitioner has
6 not shown that his particular conditions of confinement are such that “the interests of Justice”
7 require appointment of counsel. In addition, the Court has not determined an evidentiary hearing
8 will be required in this case, nor does it appear one is needed at this point. *See* Rule Governing
9 Section 2254 Cases in the United States District Courts 8(c). Under separate Report and
10 Recommendation, the undersigned is recommending that the Court transfer the petition to the
11 Ninth Circuit Court of Appeals as a second or successive petition, pursuant to Ninth Circuit Rule
12 22-3(a), and administratively close the file.

13 Accordingly, petitioner’s motion for the appointment of counsel (ECF No. 23) is
14 **DENIED.** The Clerk shall send a copy of this Order to Petitioner and to counsel for Respondent.

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16 DATED this 19th day of November, 2012.

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19 Karen L. Strombom
20 United States Magistrate Judge
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